

Sept. 6, 2016

Judith Whitney, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, VT 05620-2701

Re: CPG #16-0042-NMP

Dear Ms. Whitney,

Please find Neighbors of Orchard Road Solar I's Motions to Intervene, Notices of Appearance, Comment Letter and Exhibits, and Reply to Response from Applicant.

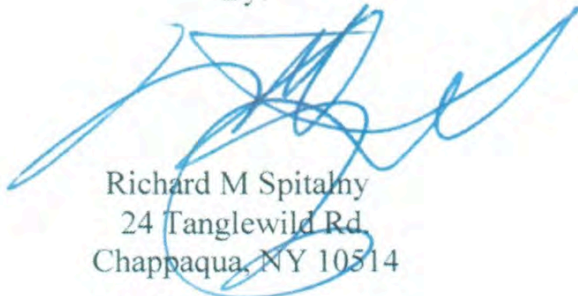
Two hard copies are being hand delivered to the PSB today.

Hard copies are being mailed to the Service List, as noted on the Certificate of Service.

Thank you.

On behalf of Neighbors of Orchard Road Solar I,

By:



Richard M Spitalny  
24 Tanglewild Rd  
Chappaqua, NY 10514

914-329-9690

[rspitalny@hotmail.com](mailto:rspitalny@hotmail.com)

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a )  
certificate of public good, pursuant to 30 V.S.A. )  
§§ 219a and 248, to install and operate a 500 kW ) CPG #16-0042-NMP  
group net metered solar electric generation facility )  
located on Orchard Road in Middletown Springs, )  
Vermont, to be known as the "Orchard Road )  
Solar Project"

**MOTION TO INTERVENE OF  
RICHARD M. SPITALNY**

Now comes Richard M. Spitalny and moves to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Richard M. Spitalny is an adjoining property owner who has substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. A former resident of Middletown Springs, Movant currently resides at 24 Tanglewild Road, Chappaqua, NY 10514 and has owned property in Middletown Springs since 1972, at one time including the land groSolar has proposed as the installation site of this 500 kW solar electric generation facility. Movant still owns 26.9 acres located approximately 185 feet west of the proposed "Orchard Road Solar Project" where Movant has a house that Movant uses throughout the year. The house is situated approximately 300 feet, west of the proposed "Orchard Road Solar Project" at 67 Wescott Road.
3. The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). The proposed site is fully visible from Movant's property and house for the majority of the year. Even during full foliage, the proposed site is visible. Planting proposed by Applicant to mitigate Movant's views is grossly insufficient. Further, there is no way to mitigate views of the proposed site when viewed from the roads that crisscross the opposite hillside north of Route 140 due to the extremely high elevation of the proposed site, it is the ridgeline when viewed from roads north of Route 140; and, because the proposed solar array would be on land that gets higher towards the south. The upward slope of the land proposed as the site of the solar array means that most, if not all, of the proposed 2,250 solar panels, each 9 feet tall, would be seen by Movant when looking south from roads north of Route 140. No other party will adequately protect these interests of the Movant. Movant has a substantial and particularized interest in





maintaining the current natural beauty; rural; and scenic quality of the land in such close proximity to Movant's property and house and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Contrary to 30 V.S.A. § 248(b)(1) the Project will unduly interfere with the orderly development of the region. By proposing that 2,250 solar panels, each 9 feet tall, be installed on approximately 5 acres, at an elevation of well over 200 feet, at the top of and in an apple orchard, that can be seen from miles away from Route 140 and numerous homes, the Project clearly does not comply with the Middletown Springs current Town Plan adopted March 6, 2012. **Chapter II: Land Use, A. Overview** of said plan, on page 9, reads: "The people of Middletown Springs want the Town to keep its traditional rural character. The preservation of agriculture, the protection of scenic ridgelines, and a compact village hub are integral to the character of the Town. Future land use should maintain these qualities. No major changes in land use are foreseen for the next 5 years and future land use should follow present land use. As a general principle, development of any type should not occur in protected areas (state identified wetlands) sensitive areas (ridgelines, steep slopes, winter deer habitat, and prime agricultural lands.)" An evaluation of whether the Project will unduly interfere with orderly development of the region requires consideration of alternative sites. Movant has a substantial and particularized interest in the issue of the Project's compatibility with orderly development as it directly and uniquely affects their property within the region. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

5. Contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply the Project requires the disruption of large amounts of soil believed to be toxic in order to build a 12 foot wide, gravel access road; install underground electrical conduit; anchor 2,250 solar panels; and, install fencing around approximately 4 acres in a site known to have ledge and wells, located approximately only 750 feet from a CSWI mapped wetland; 1,300 feet from a stream tributary to the Poultney River; and, 1,400 feet from the Poultney River<sup>1</sup>. Movant has a substantial interest in the area of the Site and the appropriate use of the area because of the proximity of their property and house. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

  
<sup>1</sup> Arrowwood Environmental's 6/29/2016 Figure 1. Resource Assessment Map




6. The Project will unduly interfere with Movant's ability to sell Movant's property and/or house and property in the future due to its close proximity and the unduly adverse effect it will have on aesthetics, changing the current views from the land, house and wrap-around deck of an orchard and open fields to a view of about 4 acres of fencing (7 to 8 feet tall) around 2,250 nine-foot tall, metal and glass solar panels; a 12 foot wide gravel access road; and, a concrete slab and small equipment shed, etc.. According to all three of three Realators consulted, Movant's property value will decrease for the reasons stated directly above; and, because of the introduction of unnatural noise, both day and night; and, concerns about the disturbance of what is believed to be toxic soil; as well as concerns about radiation, whether well-founded or not.

Applicant's Project Developer, Peter Bay, recently wrote in a letter: "While this is a typical process for groSolar, we realize that this is very important due to the exceptional beauty of Middletown Springs - something invaluable to its residents and visitors." Thus, underscoring the devaluation of Movant's property once the beauty of the current Site is decimated.

The Project's installation plans are contrary to maintaining the value of Movant's house and property. Movant has a substantial and particularized interest maintaining the value of Movant's house and property. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

7. Contrary to 10 V.S.A. § 6086(a)(8) the Project will unduly interfere with the protection of habitat for Woodcock as well as wintering for herds of deer. The Project installation of a fence around approximately 4 acres, as well as the mowing of said area, comprising the solar array, will eliminate habitat for Woodcock as well as wintering fields for deer eliminating Movant's ability to enjoy watching Woodcock and deer from Movant's property and house as well as when walking east on Wescott Road. Movant has a substantial and particularized interest maintaining the current level of Woodcock and deer close to Movant's property. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

8. Contrary to 30 V.S.A. §248(b)(5) and 10 V.S.A. §6086(a)(8) the Project will unduly interfere with Movant's ability to enjoy Movant's house and property as well as Movant's ability to sleep. The transformers and other equipment specified in Applicant's plans generate noise during the day and night (24 hours a day) at a decibel level that can be heard from Movant's property; deck and house disrupting, if not completely eliminating Movant's ability to enjoy the property in its natural state as a remote, rural location.





The Project's installation plans are contrary to maintaining the current aural qualities of the property. Movant has a substantial and particularized interest maintaining the current aural qualities of Movant's property. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

9. In Movant's July 28, 2016 letter to the PSB and the full Service List, Movant noted the application was filed by "Orchard Road Solar I, LLC"; and, in both Context/Viewshed Plan|Figure 1 and Site Plan|Figure 2, both created on July 1, 2016; as well as on Exhibit ORS-RV-2, dated July 13, 2016, the Project Parcel and Project Property Line encompasses what Movant estimated to be about 30 acres +/- . However, the Application otherwise indicates the Project will be (only) 5 acres. The reference to 'Solar I', implies the possibility of 'Solar 2'; that, and the 30 acre +/- Project Parcel leads Movant to wonder whether the Applicant's real plans, in the very near future, aren't for a project larger than 500 kW and that perhaps they are simply trying to avoid the more rigorous requirements of a larger installation.

Should Applicant seek and successfully receive a Certificate of Public Good for the installation of another 500kW site (or larger) all of the concerns enumerated above would be further multiplied and magnified. Movant has a substantial and particularized interest in opposing and/or limiting an additional installation of a solar electric generating facility in such close proximity to Movant's property and house. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movant incorporates by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Movant respectfully requests that he be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Chappaqua, New York.



Richard M. Spitalny  
24 Tanglewild Road  
Chappaqua, NY 10514-2516  
914-238-8238  
[rspitalny@hotmail.com](mailto:rspitalny@hotmail.com)

**STATE OF VERMONT  
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§§ 219a and 248, to install and operate a 500 kW ) CPG #16-0042-NMP  
group net metered solar electric generation facility )  
located on Orchard Road in Middletown Springs, )  
Vermont, to be known as the "Orchard Road )  
Solar Project"

**NOTICE OF APPEARANCE**

Please enter the appearance of Richard Spitalny, *pro se*, in the above referenced matter.

Dated Chappaqua, New York this 6<sup>th</sup> day of September, 2016.

By:



Richard M Spitalny  
24 Tanglewild Rd  
Chappaqua, NY 10514

914-329-9690

[rspitalny@hotmail.com](mailto:rspitalny@hotmail.com)

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**MOTION TO INTERVENE OF  
TED AND DINA FITZPATRICK**

Now come Ted W. Fitzpatrick and Dina J. Fitzpatrick and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Ted W. Fitzpatrick and Dina J. Fitzpatrick are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.

2. Movants’ currently reside at 12525 Jot Em Down Lane Odessa, FL 33556 and are the owners of 10 acres (mol) at 59 Wescott Rd. Middletown Springs, Vermont 05757. The property at 59 Wescott Rd. is vacant land at present but was purchased for the purpose of constructing a single family residence where Movants’ will reside on a full time basis. This property is contiguous to the proposed solar electric generation facility and borders the proposed site on the western most boundary of the site. According to the documents submitted by the applicant for the Orchard Road Solar Project, the proposed facility is to be erected 50 feet east of Movants’ property line. Movants’ purchased this property in 2004 with only one intent, to build a full time residence upon their retirement. The proposed residence will be constructed several hundred feet south of Wescott Rd. The residence will be set at a higher elevation than the proposed solar facility which will place this project in the line of sight of Movants’ residence effectively obstructing and destroying the view Movants’ currently enjoy.

3. Contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply the Project requires the disruption of large amounts of soil believed to be toxic. The area chosen for the site is in close proximity to the Poultney River. The planned fencing and installation of project components on the site will have an undue adverse effect on the natural environment as the Poultney River ecosystem is sensitive and may be affected by the installation. Site preparation and installation activities may impact the groundwater upon which Movants’ new home will rely. This proposal would cover a

little less than 4 acres of land which will upset the natural balance of water runoff as it currently exists. Wildlife that are supported by the 4 acres of natural land will be affected from the sound emitted and vegetation changes from this project. As current landowners and future residents, Movants' have a substantial interest in the area of the site and the appropriate use of the area because of the connection of Movants' property and the site as contiguous elements. No other party will adequately protect these interests of this property, the current residents of Middletown Springs and the fragile ecosystem supported by the Poultney River and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Contrary to 30 V.S.A § 248(b)(1) the project will unduly interfere with the orderly development of the region. The project does not comply with the plan adopted by the Town of Middletown Springs on agricultural and scenic resources, in particular the protection of the ridgeline from industrial commercial development. An evaluation of whether the project will unduly interfere with orderly development of the region requires consideration of alternative sites. Movants' have a substantial and particularized interest in the issue of the project's compatibility with orderly development as it directly and uniquely affects their property within the region. No other party will adequately protect these interests of their land there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

5. The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). Movants' property has a beautiful view of the mountains and the field where the proposed solar facility is proposed to be constructed. The residence Movants' intend to build on the property will set at a higher elevation than the facility. This project will devastate those views and completely change the panoramic scenery Movants' currently enjoy. Movants' purchased this land specifically for the breathtaking views and this project will irrevocably destroy that view. The solar facility is fully visible from Movants' property and the project is proposing screening, which is not adequate. The applicant is not proposing proper mitigation measures between Movants' property and the proposed solar array. No other party will adequately protect these interests of their land and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movants' contend that the building of the proposed solar facility 50 feet from their property line would shock and offend an average person who intends on building a full time residence on said property. The documents provided for this facility indicate a 100 foot setback from Wescott Rd., a route used primarily for vehicular traffic. No one will ever reside on a roadway, but the same plans call for the aforementioned 50 foot setback back from Movants' property line where a full time residence is to be constructed. Movants' argue that a setback of at least 150 feet



from a residential property would not be an unreasonable accommodation, if this project is allowed to proceed. This type of facility operating that close to a residential property in a rural area is inconsistent with the character of Middletown Springs and the aesthetic beauty of the town and its scenic ridgeline. In a review of the plans for this project, it seems that no consideration was given to the fact that these panels would be placed facing south on a downward slope toward the north. It would seem that the placement of these solar panels in this manner would raise the height that the panels need to be placed, 9 feet according to plans, as they directly oppose the natural lay of the land. An alternate site, in which the panels are angled with the slope of the land, might be placed lower than 9 feet and be less obtrusive than the current proposal. Movants' contend that every possible consideration should be given as to placement of solar panels that attempt to flow with the current lay of the land rather than in opposition to it.

The Town of Middletown Springs has unspoiled and natural beauty that cannot be measured. The apple orchard, that Movants' property was once a part of, has a significant and historical meaning to the fabric that makes Middletown Springs the quintessential Vermont town. The structures and equipment involved in this project will never blend into the natural beauty of the land. This project has no aesthetic appeal and it will change the character of the land forever. When you drive through the Green Mountains you realize that the state of Vermont possesses a beauty like no other. When that beauty has been altered it will never return. You can't "un ring" a bell. This project is definitely a form of visual pollution. This type of project erases all of the efforts that Vermont and Middletown Springs have put forth to protect its scenic resources. This project will have a negative impact on Movants' property value and their way of life.

6. Movants' request the Board consider, and not waive, 30 V.S.A. § 248(b)(5) (greenhouse gases, public health, and safety) as the project will create health and safety issues. Movants have concerns about this project regarding the electromagnetic field created by the equipment to be installed and the close proximity of Movants' future residence to that field. In reference to the health risks involved with living that close to a power plant, it appears that at this point there are no definitive answers and additional research needs to be conducted. Movants' contend that persons suffering from certain health conditions would be exasperated by the glare and reflections of the sun from the proposed project. Disabling glare is sunlight that interferes with the clarity of a visual image and reduces contrast. In addition, it can cause or intensify migraines headaches and eye pain. A project such as this cannot totally eliminate glare as the solar panels would face south and Movants' residence will face north in direct view of the panels. This project will emit frequencies that could interfere with Movants' residential electronic equipment as the facility would only be 50 feet from Movants' property line. The project would also create a continuous noise during daytime which is not congruent with a person's quality of life. Observational and experimental studies have shown that even low level noise exposure leads to annoyance, disturbs sleep and causes daytime sleepiness, affects patient outcomes and staff performance in hospitals, increases the occurrence of hypertension and cardiovascular disease, and impairs cognitive

performance in schoolchildren. Experts stress the importance of adequate noise prevention and mitigation strategies for public health. Movants' contend that the 24 hour a day noise pollution from this facility could cause or intensify their health issues. Movants' have no opposition to solar power as an alternative to fossil fuels, as long as it is does not adversely affect the citizens served by solar power or destroy the scenic beauty of a town such as Middletown Springs. These projects must be developed in a responsible manner so we do not repeat the mistakes made with fossil fuel development. No one wants to see the state nickname changed to The Green Mountain State Peppered With Solar Panels. No other party will adequately protect these interests of their land and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movants incorporate by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Movants pray that they be permitted to participate in this Docket NMP - CPG #16-0042 as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.



Ted W Fitzpatrick



Dina J Fitzpatrick

Ted W Fitzpatrick  
Dina J Fitzpatrick  
12525 Jot Em Down Lane  
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813-920-6880  
Dfitz225@verizon.net



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Vermont, to be known as the "Orchard Road )  
Solar Project"

**NOTICE OF APPEARANCE**

Please enter the appearance of Ted and Dina Fitzpatrick, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.



Ted W Fitzpatrick



Dina J Fitzpatrick

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12525 Jot Em Down Lane  
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**MOTION TO INTERVENE OF  
Peter and Aileen Stevenson**

Now come Peter and Aileen Stevenson and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Peter and Aileen Stevenson are neighboring property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. We have lived year round at 97 Coy Hill Rd., Middletown Springs, VT about 2500’ from the proposed project for over 30 years and year round in Middletown Springs since 1977. One of the reasons that we made our home here on Coy Hill Rd., aside from being in close proximity to family, was for the beauty and quiet of the rural surroundings for the views of the mountains and orchard and because everyone on Coy Hill Rd through the years has held a fierce desire to maintain the rural character of the area. The Town Plan also backed up this sentiment through surveys of the entire townspeople so we felt comfortable that we would be protected from commercial eyesores that encroached on those rural aspects of the area. The proposed site of the solar array is clearly in our view-shed, which we have treasured as one of the reasons that we remain in Vermont in retirement rather than moving to a suburban location closer to our children and grandchildren, in spite of being heavily taxed in Vermont both on the income and real estate side. We have loved and respected the land and the surrounding wildlife from turkeys, grouse, bear, moose, to name only a few species and all of the “rural life” that is true to Vermont and which fewer and fewer of us have can experience.

Aileen has been associated with Coy Hill since birth in 1945 enjoying summers and then year round residency on an old 1810 farmstead and 150 acres just south of the orchard which her parents owned (1941-1986) and conserved and treasured, realizing how important it is to protect the land and legacies of our past. Today the farm, founded in 1785, and all of the other nearby properties, many over 100 acres also with pre 1820 antique houses and barns, are still being carefully



preserved by other owners and still retain the same open fields, woods and several pure mountain trout streams which feed into the beautiful gorge just south of the orchard and subsequently through the orchard and into the Poultney River in Burnham Hollow at Barker's Bridge leading to the orchard.

Middletown Springs, and particularly our area stretching from Coy Hill Rd. through the orchard and beyond is the signature Vermont, expensively promoted for years by the VT Dept. of Tourism in a magazine that has been read nationwide: VERMONT LIFE. We are here because of that "promise" of Vermont and that living in Vermont's small towns means rural and not commercial. This area, through lots of hard work of the newly operable small farms raising sheep, goats, cattle, chickens and growing organic vegetables thrive in the rural nature of our surroundings and attract other like entities. The State of Vermont promotes these newer sustainable small farms. Commercial solar operations that mar the view, potentially infiltrate the water supplies and change the nature of the rural economy will not enhance the attraction of others to take up the mantle of agriculture in a state that is trying to grow and continue in a way that will not detract from the tourism and the agricultural economy within the state much less in our town.

The proposal of the solar array is a major change to the aesthetics of the area. The solar array will be visible not only to abutters and close neighbors such as ourselves but to many properties extending as far as the East side of the Village over a mile and a half away. The high lands for the proposed site is one of the MOST visible parcels within Middletown Springs from so many vantage points. The aesthetics of a commercial solar array will change the aesthetics of a large percentage of the town. The Gro Solar consultants have overlooked several significant properties in their findings, which will be grossly affected aesthetically, including our property at 97 Coy Hill Rd. The glare issue from the panels and the noise issue have not been addressed for our property and for many others close by. The study for the mitigation proposes screening by existing apple trees many of which are very old and some, which are dying, and it does not address screening the site from the views to the East. The construction phase outline does not address any plantings at all! And since the applicant states that a permit is not necessary, there appears to be no independent inspection of the build out. And, not least of all, the dismantling at the end of the life of the site is not clearly outlined or addressed nor does it have a provision of security that the owner WILL follow through on the dismantling when the time comes. No monetary provisions are mentioned. Therefore, it is likely that in the future, the aesthetics will even more drastically impact the surroundings with a decaying and soon to be obsolete array that rapes the system with public incentives, profits and tax deductions and leaves those taxpayers who remain in the area and neighbors looking at a total destruction of the land which will have turned into an illegal metal, glass and chemical dump site. And, there is no outline for oversight of any mitigation done on the site or of the dismantling process. And, meanwhile, the land owner and the installing company will reap huge sums and be on to getting

more and more grants to the great cost of the Middletown Springs and Vermont taxpayer.

The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). This includes wildlife. No other party will adequately protect our interests. We have a substantial and particularized interest in maintaining the current natural beauty; rural; and scenic quality of the land and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

3. The area of the proposed solar array was home to an orchard from the early twentieth century to the 1980's. It is a well known fact that historic orchards used chemicals and poisons and fertilizers now banned from use and that some do not break down over time. Lead arsenic pollutants used so prevalently in orchards, particularly, remain in the soils permanently, and in the case of the orchard with its scanty soil coverings over ledge, 10 VSA 6086 needs to be addressed through testing on this issue which has been neglected. The groundwater is significant on this parcel and the run off due to land disturbances into the watershed of the unnamed tributaries of the Poultney River running through the property into the Poultney River, which should be considered for protection.

The Project is contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply. We have substantial interests in the area of the Site and the appropriate use of the area because of the proximity of our property and house and water supplies and use of the Poultney River for recreation. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected.

4. The proposed Gro Solar array does interfere with the stated desire of the Middletown Springs Town Plan which is to develop within the context of maintaining the rural character of the Town: “ The general goal of the residents of Middletown Springs is to preserve the rural lifestyle and appearance while providing community services, recreational and cultural opportunities, quality education, and protection of environment as well as economic growth opportunities, specifically agriculture and forestry. The resident survey showed that most residents indicated a preference for the Town to remain the same while asking for improvement in the appearance of the village part of the Town.” From Middletown Springs Town Plan, Adopted March 6, 2012

Contrary to 30 V.S.A § 248(b)(1) the Project will unduly interfere with the orderly development of the region. We have substantial and particularized interest since the issue of the Project's compatibility with orderly development as it directly and uniquely affects our property within the region. No other party will



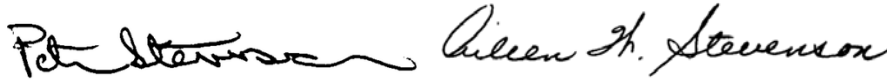
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Wherefore, Peter and Aileen Stevenson request that they be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:

The block contains two handwritten signatures in black ink. The signature on the left is for Peter Stevenson, written in a cursive style. The signature on the right is for Aileen H. Stevenson, also in cursive.

Peter Stevenson

Aileen Stevenson

97 Coy Hill Rd.  
Middletown Springs, VT 05757  
802-235-2191  
[aandp6768@gmail.com](mailto:aandp6768@gmail.com)

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

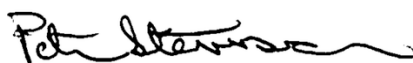
Application of Orchard Road Solar I, LLC for a	)	
certificate of public good, pursuant to 30 V.S.A.	)	
§§ 219a and 248, to install and operate a 500 kW	)	CPG #16-0042-NMP
group net metered solar electric generation facility	)	
located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	

**NOTICE OF APPEARANCE**

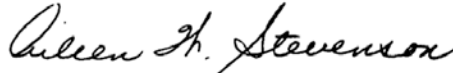
Please enter the appearance of Peter and Aileen Stevenson, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:



Peter Stevenson



Aileen Stevenson

97 Coy Hill Rd.  
Middletown Springs, VT 05757  
802-235-2191  
[aandp6768@gmail.com](mailto:aandp6768@gmail.com)

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a )  
certificate of public good, pursuant to 30 V.S.A. )  
§§ 219a and 248, to install and operate a 500 kW ) CPG #16-0042-NMP  
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located on Orchard Road in Middletown Springs, )  
Vermont, to be known as the “Orchard Road )  
Solar Project” )

**MOTION TO INTERVENE OF  
Karen L. Gutmann and Larry L. Springsteen**

Now come Karen L. Gutmann and Larry L. Springsteen and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Karen L. Gutmann and Larry L. Springsteen are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. Karen L. Gutmann and Larry L. Springsteen own 19+/- acres located approximately 1650 feet north of the proposed “Orchard Road Solar Project” where they have a working dairy farm. Although the house is not on the historic register, it was built in the 1800s, as was the post and beam barn and carriage house.
3. The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). The proposed site is fully visible from the property during the entire year. Even during full foliage, the proposed site is visible. Planting proposed by Applicant to mitigate Movants’ views is grossly insufficient. The dairy farm is named “Orchard View Farm” which is in tribute to the beauty of the view that we currently enjoy, and which adds to the value of our property. Further, there is no way to mitigate views of the proposed site when viewed from the roads that crisscross the opposite hillside north of Route 140 due to the extremely high elevation of the proposed site, it is the ridgeline when viewed from roads north of Route 140; and, because the proposed solar array would be on land that gets higher towards the south. The upward slope of the land proposed as the site of the solar array means that most, if not all, of the proposed 2,250 solar panels, each 9 feet tall, would be seen by Movant when looking south and west from our property. No other party will adequately protect these interests of the Movant. Movant has a substantial and particularized interest in maintaining the current natural beauty; rural; and scenic quality of the land in such close proximity to Movant’s property and house and there are no alternative means by which these interests may be protected. Intervention is

timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Contrary to 30 V.S.A. § 248(b)(1) the Project will unduly interfere with the orderly development of the region. By proposing that 2,250 solar panels, each 9 feet tall, be installed on approximately 5 acres, at an elevation of well over 200 feet, at the top of and in an apple orchard, that can be seen from miles away from Route 140 and numerous homes, the Project clearly does not comply with the Middletown Springs current Town Plan adopted March 6, 2012. **Chapter II: Land Use, A. Overview** of said plan, on page 9, reads: “The people of Middletown Springs want the Town to keep its traditional rural character. The preservation of agriculture, the protection of scenic ridgelines, and a compact village hub are integral to the character of the Town. Future land use should maintain these qualities. No major changes in land use are foreseen for the next 5 years and future land use should follow present land use. As a general principle, development of any type should not occur in protected areas (state identified wetlands) sensitive areas (ridgelines, steep slopes, winter deer habitat, and prime agricultural lands.)” An evaluation of whether the Project will unduly interfere with orderly development of the region requires consideration of alternative sites. Movants have a substantial and particularized interest in the issue of the Project’s compatibility with orderly development as it directly and uniquely affects their property within the region. No other party will adequately protect these interests of the Movants and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

5. Contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply the Project requires the disruption of large amounts of soil believed to be toxic in order to build a 12 foot wide, gravel access road; install underground electrical conduit; anchor 2,250 solar panels; and, install fencing around approximately 4 acres in a site known to have ledge and wells, located approximately only 750 feet from a CSWI mapped wetland; 1,300 feet from a stream tributary to the Poultney River; and, 1,400 feet from the Poultney River<sup>1</sup>. Movant has a substantial interest in the area of the Site and the appropriate use of the area because of the proximity of their property and house. No other party will adequately protect these interests of the Movants and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

6. The Project will unduly interfere with Movants’ ability to sell Movants’ property and/or house and property in the future due to its close proximity and the unduly adverse effect it will have on aesthetics, changing the current views from the land, an orchard and open fields to a view of about 4 acres of fencing (7 to 8 feet tall) around

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<sup>1</sup> Arrowwood Environmental’s 6/29/2016 Figure 1. Resource Assessment Map



2,250 nine-foot tall, metal and glass solar panels; a 12 foot wide gravel access road; and, a concrete slab and small equipment shed, etc.. According to all three of three Realators consulted, Movants' property value will decrease for the reasons stated directly above; and, because of the introduction of unnatural noise, both day and night which will adversely affect the dairy animals and, concerns about the disturbance of what is believed to be toxic soil; as well as concerns about radiation, whether well-founded or not.

Applicant's Project Developer, Peter Bay, recently wrote in a letter: "While this is a typical process for groSolar, we realize that this is very important due to the exceptional beauty of Middletown Springs - something invaluable to its residents and visitors." Thus, underscoring the devaluation of Movants' property once the beauty of the current Site is decimated.

The Project's installation plans are contrary to maintaining the value of Movants' house and property. Movants have a substantial and particularized interest maintaining the value of Movants' house and property. No other party will adequately protect these interests of the Movants and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

7. Contrary to 10 V.S.A. § 6086(a)(8) the Project will unduly interfere with the protection of habitat for Woodcock as well as wintering for herds of deer. The Project installation of a fence around approximately 4 acres, as well as the mowing of said area, comprising the solar array, will eliminate habitat for Woodcock as well as wintering fields for deer eliminating Movant's ability to enjoy watching Woodcock and deer from Movant's property and house as well as when walking east on Wescott Road. Movant has a substantial and particularized interest maintaining the current level of Woodcock and deer close to Movant's property. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

8. Contrary to 30 V.S.A. §248(b)(5) and 10 V.S.A. §6086(a)(8) the Project will unduly interfere with Movant's ability to enjoy Movant's house and property as well as Movant's ability to sleep. The transformers and other equipment specified in Applicant's plans generate noise during the day at a decibel level that can be heard from Movant's property; deck and house disrupting, if not completely eliminating Movant's ability to enjoy the property in its natural state as a remote, rural location.

The Project's installation plans are contrary to maintaining the current aural qualities of the property. Movant has a substantial and particularized interest maintaining the current aural qualities of Movant's property. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

9. In Movant's July 28, 2016 letter to the PSB and the full Service List, Movant noted the application was filed by "Orchard Road Solar I, LLC"; and, in both Context/Viewshed Plan|Figure 1 and Site Plan |Figure 2, both created on July 1, 2016; as well as on Exhibit ORS-RV-2, dated July 13, 2016, the Project Parcel and Project Property Line encompasses what Movant estimated to be about 30 acres +/-.

However, the Application otherwise indicates the Project will be (only) 5 acres. The reference to 'Solar I', implies the possibility of 'Solar 2'; that, and the 30 acre +/- Project Parcel leads Movant to wonder whether the Applicant's real plans, in the very near future, aren't for a project larger than 500 kW and that perhaps they are simply trying to avoid the more rigorous requirements of a larger installation.

Should Applicant seek and successfully receive a Certificate of Public Good for the installation of another 500kW site (or larger) all of the concerns enumerated above would be further multiplied and magnified. Movant has a substantial and particularized interest in opposing and/or limiting an additional installation of a solar electric generating facility in such close proximity to Movant's property and house. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movants incorporate by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Movants pray that they be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.



Karen L. Gutmann and Larry L. Springsteen  
290 West Street  
Middletown Springs, VT 05757  
802-235-1133  
orchardnubians@aol.com

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

STATE OF VERMONT  
PUBLIC SERVICE BOARD

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located on Orchard Road in Middletown Springs, )  
Vermont, to be known as the "Orchard Road )  
Solar Project"

**NOTICE OF APPEARANCE**

Please enter the appearance of Karen L. Gutmann and Larry L. Springsteen, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:

Handwritten signatures of Karen L. Gutmann and Larry L. Springsteen.

Karen L. Gutmann and Larry L. Springsteen  
290 West Street  
Middletown Springs, VT 05757  
802-235-1133  
orchardnubians@aol.com

**STATE OF VERMONT  
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Solar Project” )

**MOTION TO INTERVENE OF  
Douglas K. Freilich and Julie A. Sperling**

Now comes Douglas K. Freilich and Julie A. Sperling and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Douglas K. Freilich and Julie A. Sperling are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. Douglas K. Freilich and Julie A. Sperling own, since 2003, 8 +/- acres and also have a share in an additional 60 +/- acres located to the north side of Route 140 north of the proposed “Orchard Road Solar Project”, including acreage that is used as an agricultural field both for haying and planting depending on the year. The movants are part of a group that maintains the shared property as open land and stewards it as a valuable part of the rural landscape. This property has a full, year-round view of the proposed Site.
3. The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). The proposed site is fully visible from the property during the entire year. Even during full foliage, the proposed site is visible. Planting proposed by Applicant to mitigate Movants’ views is grossly insufficient. There is no way to mitigate views of the proposed site when viewed from the roads that crisscross the opposite hillside north of Route 140 due to the extremely high elevation of the proposed site, it is the ridgeline when viewed from roads north of Route 140; and, because the proposed solar array would be on land that gets higher towards the south. The upward slope of the land proposed as the site of the solar array means that most, if not all, of the proposed 2,250 solar panels, each 9 feet tall, would be seen by movant when looking south from our property. No other party will adequately protect these interests of movant who have a substantial and particularized interest in maintaining the current natural beauty; rural; and scenic quality of the land



in such close proximity to movant's property and house and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Contrary to 30 V.S.A. § 248(b)(1) the Project will unduly interfere with the orderly development of the region. By proposing that 2,250 solar panels, each 9 feet tall, be installed on approximately 5 acres, at an elevation of well over 200 feet, at the top of and in an apple orchard, that can be seen from miles away from Route 140 and numerous homes, the Project clearly does not comply with the Middletown Springs current Town Plan adopted March 6, 2012. Chapter II: Land Use, A. Overview of said plan, on page 9, reads: "The people of Middletown Springs want the Town to keep its traditional rural character. The preservation of agriculture, the protection of scenic ridglines, and a compact village hub are integral to the character of the Town. Future land use should maintain these qualities. No major changes in land use are foreseen for the next 5 years and future land use should follow present land use. As a general principle, development of any type should not occur in protected areas (state identified wetlands) sensitive areas (ridgelines, steep slopes, winter deer habitat, and prime agricultural lands.)" An evaluation of whether the Project will unduly interfere with orderly development of the region requires consideration of alternative sites. movant have a substantial and particularized interest in the issue of the Project's compatibility with orderly development as it directly and uniquely affects their property within the region. No other party will adequately protect these interests of movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

5. Contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply the Project requires the disruption of large amounts of soil believed to be toxic in order to build a 12 foot wide, gravel access road; install underground electrical conduit; anchor 2,250 solar panels; and, install fencing around approximately 4 acres in a site known to have ledge and wells, located approximately only 750 feet from a CSWI mapped wetland; 1,300 feet from a stream tributary to the Poultney River; and, 1,400 feet from the Poultney River. Movant have a substantial interest in the area of the Site and the appropriate use of the area because of the proximity of their property and house, and because any spraying that is done will contaminate pastures used agriculture. No other party will adequately protect these interests of the movants and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

6. The Project Parcel and Project Property Line encompasses what Movant estimated to be about 30 acres +/- . However, the Application otherwise indicates the Project will be (only) 5 acres. The reference to 'Solar I', implies the possibility of 'Solar 2'; that, and the 30 acre +/- Project Parcel leads Movant to wonder whether the

Applicant's real plans, in the very near future, aren't for a project larger than 500 kW and that perhaps they are simply trying to avoid the more rigorous requirements of a larger installation.

Should Applicant seek and successfully receive a Certificate of Public Good for the installation of another 500kW site (or larger) all of the concerns enumerated above would be further multiplied and magnified. Movant has a substantial and particularized interest in opposing and/or limiting an additional installation of a solar electric generating facility in such close proximity to Movant's property and house. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movants incorporate by reference the comment letter submitted as part of this docket on September 6th, 2016.

Wherefore, Movants pray that they be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.



Douglas K. Freilich and Julie A. Sperling  
PO Box 1041  
Middletown Springs, VT 05757  
802-235-1282  
nagabake@vermontel.net

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a	)	
certificate of public good, pursuant to 30 V.S.A.	)	
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group net metered solar electric generation facility	)	
located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	

**NOTICE OF APPEARANCE**

Please enter the appearance of Doug Freilich and Julie Sperling, *pro se*, in the above referenced matter.

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.



Douglas K. Freilich and Julie A. Sperling  
PO Box 1041  
Middletown Springs, VT 05757  
802-235-1282  
nagabake@vermontel.net

## STATE OF VERMONT

## PUBLIC SERVICE BOARD

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 Solar Project” )

**MOTION TO INTERVENE OF**

## Neil and Thomas Russell

Now come Neil Russell and Thomas Russell and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Neil Russell (son) and Thomas Russell (father) are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. Neil Russell lives at 240 West Street Middletown Springs, VT 05757. Thomas Russell lives at 300 West Street Middletown Springs, VT 05757.

My (Neil Russell) property is directly across Rt. 140 to the Northeast of the proposed site. The Southwestern most corner of my property is a mere 250 (approx.) ft from the Northeastern most point of the Querrey's property. I purchased the property and moved back to Middletown Springs 4 years ago after 20 years living in other areas of VT. There are 2 reasons I did this. First I needed to be close to my father Thomas Russell. He and my mother purchased their property in 1970 at their property was my childhood home. My father is in need of care and I am his primary caretaker now. The second reason I moved back to Middletown Springs is because of the beauty and rural nature of the town. I grew up in Middletown Springs roaming carefree with my friends in the woods and meadows, hillsides and valleys. The town in general and especially Burnham Hollow is a unique and special place. I have many fond memories here including picking apples in the Orchard. From my property there are many spectacular views of the surrounding hills



including Querrey's property but the best is from my front yard where I look directly Southwest over the roof of their barn and at the apple orchard above, right at the proposed site.

I (Tom Russell) moved to Middletown Springs in 1971. I had a close friend who had moved here and my wife and I wanted to get out of New York City. We were only shown a couple properties but the minute we saw this one we fell in love with it. The acreage was adequate, it faced south, had a beautiful barn and historic house although both of them needed considerable work. The Burnham family (for whom Burnham Hollow is named after) built the oldest sections of our house in the 1790's and 1800's and lived here for many years. It was the first house in Middletown Springs to incorporate sawn lumber into its construction along with hand hewn. It has a rich history and is on the register of historic places. I am a visual artist and have worked in graphic design for 50 years along with pursuing my own individual art career. In 1971 when we moved here the trees weren't nearly as tall as they are now and we had an incredible view of the entire Orchard. When guests would come to visit I would take them to the highest point of our land in our orchard (which Rocks and Trees owns the remainder of). From this vantage point the terrain seemed to almost flatten out and even though there was a river and a road between our property and the Orchard across the street, they seemed almost as one. There is a picture in *Vermont Life Magazine* taken of our house from right where the proposed site is. There is another picture of our barn and the property of Rocks and Trees behind us on the cover of the 2010 Lakes Region Community Phonebook. Solar panels are not part of a rural landscape. They are industrial in design. Instead of adding beauty to nature they detract from it and are a blight on the landscape.

3. The view from my (Neil Russell) property is simply nothing less than amazing. I am on the North side of Rt. 140 on a gentle sloping hillside facing due South. I am truly blessed to be here enjoying it and many friends come visit my property for because it is a special place for them as well. The nearly 360 degree views from my property range from up close and personal like my view of the Orchard to long distant views of mountains in Tinmouth and beyond. These views are year round. There is no amount of screening that could be placed around this proposed site that would ever even come close to blocking it or even mitigating it partially. That is due in part to the topography of the Orchard and the fact that the site is on a rising hillside facing myself and many, many others. Not only would the residents who enjoy the Orchard's beauty from their own properties be affected but anyone who travels Rt. 140, North Street (seasonal), Spruce Knob Rd. and other travel ways would have a clear visible view of the panels. This was not included in SE Groups Quechee Analysis.

The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). No other party will adequately protect our interests. We have a substantial and particularized interest in maintaining the current natural beauty; rural; and scenic quality of the land and there are no alternative means by which these interests may

be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Aside from absolutely destroying the aesthetics of this undeveloped area I (Neil Russell) have many concerns regarding the proposed site. This is Middletown Springs and as the name suggests there is an abundance of springs in this town. There are many in the Orchard itself if I remember correctly. The topography of the Orchard is a gentle downhill slope to the North with streams, springs and rainwater emptying directly into the Poultney River. This part of the Poultney River is very clean and is only 2 or 3 miles at most from the rivers origin. As a child I remember poison sprays being dropped from low flying planes over the orchard in an effort to control pests and disease. I don't know exactly what the chemicals used were but from talking to others and doing research those chemicals are extremely toxic and take a very long time to break down. I believe arsenic was very likely one of them. As it has been explained to me by GroSolar the method of installing the solar panel bases comprises the use of a tracked vehicle to screw anchors many feet into the ground. I have been in construction since my first job at age 15. I have owned my own business in the field since 1999 and have done many excavation and land projects in that time including ponds, foundation holes, driveways, buried utilities etc. No matter how careful the operator is there is always destruction and disruption of the soil with any tracked vehicle even LGP (low ground pressure) models. Disrupting the soil over a 5 acre parcel (and maybe even a larger area) to drill in over 2000 panel support posts will, in my opinion, undoubtedly tear up the ground and potentially cause the release of these toxic chemicals from the soil where they have been trapped for the last 30 years. The same goes for the construction of the access road to the site and perimeter fencing. If they do get released they can flow downhill directly into the Poultney River or possibly seep down into the ground and ledge, making their way into the ground water supply. My well is at a depth approximately 100 foot below the Poultney River and roughly 1500 ft. away from the proposed site but this by no means is a guarantee against possible contamination. Ground water and surface water are 2 separate things and as a friend in the well drilling business once told me, he could drill a well in the middle of a river and come up dry. My father's well along with the wells of 7 other homes are even closer than mine.

The Project is contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply. We have substantial interests in the area of the Site and the appropriate use of the area because of the proximity of our property and house and water supplies and use of the Poultney River for recreation. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected.

5. As stated in the town plan for Middletown Springs it is the general goal of town policy to conserve the beautiful and scenic rural nature of the town by supporting agriculture and not industrial development. There are bylaws instituted in 1998 against a then proposed cell tower which was to be sited on the mountain just behind the Querreys'

Orchard property. These bylaws are comprehensive and deal with all of the same issues that pertain to this proposed solar development.

Contrary to 30 V.S.A § 248(b)(1) the Project will unduly interfere with the orderly development of the region. We have substantial and particularized interest since the issue of the Project's compatibility with orderly development as it directly and uniquely affects our property within the region. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

There are also a few other issues that need to be addressed dealing with the unclear and inaccurate filings provided in the application and also to me in the informational packet by GroSolar.

- a) The town highlighted in one of the maps sent to me is Benson, VT not Middletown Springs, VT.
- b) The site is on a North facing hillside close to large mountains to the South and West which will limit solar capacity.
- c) The scale in their drawings submitted is totally incorrect. It is unclear what the actual boundaries of the proposed array and fencing would be.
- d) The Quechee Analysis done by SE Group is inaccurate, incomplete and misleading in its portrayal of the project and surrounding areas. The photos submitted were cherry picked and descriptions of the surrounding area are incorrect.
- e) There is not even one marker at the proposed site to help interested parties visualize the boundaries and size of proposed project.
- f) Both the Querreys and GroSolar executives stood in front of a Middletown Springs Select Board meeting and insisted the project size would only ever be 5 acres total. In the information provided to me from GroSolar and also filed with PSB the project parcel is 30 acres with one of the drawings clearly showing the setback on the Eastern boarder along Orchard Rd. as 100 ft. to the edge of the proposed solar array. This leads me to believe that the intended future project size is the full 30 acres and not just 5 acres. If this is the case, then it is absolutely not a 500kw project.
- g) GroSolar is no longer a "local" Vermont company and is now owned by a French company.
- h) The energy from this project is being sold out of town so there is no community benefit.
- i) There is no answer as to whether the REC's will be sold or retired.

In conclusion this proposed project is poorly sited and being rushed with unclear objectives and if allowed will have a devastating and long lasting impact on the residents and landscape of Middletown Springs. The population growth of Middletown Springs is stagnant as well as that of Vermont. As the population of the nation increases and efforts to control global warming are ramped up there is more and more pressure to get projects on line as fast as possible. Net metering is meant to help deliver the energy required by citizens of Vermont. It is not to meant to exploit our resources and export the energy and credits (money) out of it while leaving the residents staring in disbelief at the new "scenic view".

Neil and Thomas Russell incorporate by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Neil and Thomas Russell pray that they be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.

By:

 *Thomas J. Russell*

Neil Russell

Thomas Russell

P.O. Box 279

West Rutland, VT 05757

802-786-9239

[firehillbilly1@yahoo.com](mailto:firehillbilly1@yahoo.com)



**STATE OF VERMONT  
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located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	

**NOTICE OF APPEARANCE**

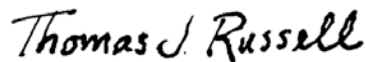
Please enter the appearance of Neil and Thomas Russell, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:



Neil Russell



Thomas Russell

P.O. Box 279  
(physical address) 240 and 300 West St.  
Middletown Springs, VT 05757  
802-786-9239  
[firehillbilly1@yahoo.com](mailto:firehillbilly1@yahoo.com)

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a )  
certificate of public good, pursuant to 30 V.S.A. )  
§§ 219a and 248, to install and operate a 500 kW ) CPG #16-0042-NMP  
group net metered solar electric generation facility )  
located on Orchard Road in Middletown Springs, )  
Vermont, to be known as the “Orchard Road )  
Solar Project” )

**MOTION TO INTERVENE OF  
ROY COOPER**

Now comes Roy Cooper and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Roy Cooper is an adjoining property owner who has substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. Roy Cooper lives at 327 West Street Middletown Springs, VT 05757. My property is on the South side of Rt. 140 and abuts the Querreys. My house and one acre is on Rt. 140 and I own 9 acres across the river bordering the West side of the Orchard for 1312 ft. I have lived in my house for 50 years. My house is very old and use to be on the other side of Rt. 140 before it was moved to its current location in the early 1900's. My family and I like hiking and hunting my property and from the top Southeast corner of it can see the proposed site. I also walk on Orchard and Wescott Roads for exercise and because I've always enjoyed the Orchard.
3. I am concerned about soil toxicity and the chemicals used in the Orchard leaching into ground water and washing downhill into the Poultney River. I have been sprayed a few times back when they used the plane. He would miss his target or the wind was blowing so there is no telling where the chemicals are concentrated. The Project is contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply. We have substantial interests in the area of the Site and the appropriate use of the area because of the proximity of our property and house and water supplies and use of the Poultney River for recreation. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected.
4. The Town plan for Middletown Springs promotes keeping our rural and scenic nature of the town. When they wanted to put a cell phone tower on the mountain behind the Orchard everyone fought it because of its impact on the area. Contrary to 30 V.S.A § 248(b)(1) the Project will unduly interfere with the orderly development of the region. We have substantial and particularized interest since the issue of the Project's

compatibility with orderly development as it directly and uniquely affects our property within the region. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

5. The view from the Southeast corner of my property is beautiful. It has grown up some in the last 50 years but I can see Wescott Road and the Orchard South of it, right where the panels are proposed in the fall, winter and spring. Someday someone may want to build a camp there or a house or enjoy it as it is. This was not included in SE Groups Quechee Analysis. I am also very concerned that the development of this proposed project will destroy a beautiful landscape that I've enjoyed all of my life. I am also concerned because there is a lot of wildlife in the Orchard that would be affected like deer and grouse. This project would hurt my property value and everyone else's who borders it. The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). No other party will adequately protect our interests. We have a substantial and particularized interest in maintaining the current natural beauty; rural; and scenic quality of the land and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public

I incorporate by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

The residents of Middletown get no energy from the project instead they get to look at solar panels that would replace a beautiful landscape. Also from the information GroSolar sent me it looks like it's a 30 acre project not 5 acres.

In conclusion I am against this proposed project because it would wreck the landscape, contaminate the water and is not good for residents of Middletown Springs. Wherefore, Roy Cooper requests that he is permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.

By:



Roy Cooper  
327 West Street  
Middletown Springs, VT 05757  
Microy2014@yahoo.com

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

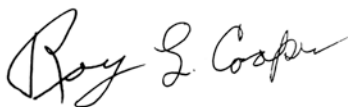
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group net metered solar electric generation facility	)	
located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	

**NOTICE OF APPEARANCE**

Please enter the appearance of Roy Cooper, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:



Roy Cooper  
327 West Street  
Middletown Springs, VT 05757  
Microy2014@yahoo.com

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a )  
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§§ 219a and 248, to install and operate a 500 kW ) CPG #16-0042-NMP  
group net metered solar electric generation facility )  
located on Orchard Road in Middletown Springs, )  
Vermont, to be known as the “Orchard Road )  
Solar Project” )

**MOTION TO INTERVENE OF  
ELIZABETH W. COOPER**

Now comes Elizabeth Cooper and moves to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Elizabeth W. Cooper is an adjoining shared property owner who has substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250, which may be affected by the outcome of the proceedings in this matter.
2. Movant resides at 49 Rocks and Trees Lane, Middletown Springs, VT and has shared ownership as member of Rocks and Trees, Inc., of a property that adjoins the Orchard Rd. Site on the north side of Route 140 and a 47-acre property that is on the hillside north of the Orchard Road site and adjoins 320 West Street. Movant has lived at this address and owned the Rocks and Trees, Inc. property share since 2004. The Movant is involved in land use and management decisions and stewardship of the land. The Rocks and Trees, Inc. property includes an old apple orchard and agricultural land that Rocks and Trees, Inc. owners have worked together with farmer partners to maintain as open land and to steward it as a valuable part of the rural landscape. This property has a full, year-round view of the proposed Site.
3. Contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply the Project requires the disruption of large amounts of soil believed to be toxic in order to build in a site known to have ledge and seeps, located approximately only 750 feet from a CSWI mapped wetland; 1,300 feet from a stream tributary to the Poultney River; and, 1,400 feet from the Poultney River. The area designated for the Site is on a part of Burnham Hollow Orchard, land that was maintained as an apple orchard for 100+/- years. Disturbance of soils in the construction in order to build a 12-foot wide, gravel access road; install underground electrical conduit; anchor 2,250 solar panels; and, install fencing around approximately 5 acres, would cause considerable soil disturbance that would impact the nearby wetlands and watershed of the Poultney River. Movant has substantial interest in the area of the Site and the appropriate use



of the area because of the close proximity of their shared property to the Poultney River and the Site as contiguous elements. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Contrary to 30 V.S.A § 248(b)(1) the proposed Orchard Road Solar 1 project will unduly interfere with the orderly development of the region. The proposal for 2,250 solar panels, on structures 9 feet tall to be installed on approximately 5 acres on a prominent site over 200 feet in elevation that can be seen from multiple points east and west on Route 140, on other town roads and from a number of properties. The fact that the proposed Site slopes up to the south means that most, if not all, of the solar panel structures would be seen from roads and properties north of Route 140 including the Movant's shared Rocks and Trees, Inc. property. The proposed project does not comply with the current Middletown Springs Town Plan adopted March 6, 2012. (See Middletown Springs Town Plan; Chapter II: Land Use, A. Overview) An evaluation of whether the Project will unduly interfere with orderly development of the region requires consideration of alternative sites. Movant has a substantial and particularized interest in the issue of the Project's compatibility with orderly development as it directly and uniquely affects their properties within the region. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

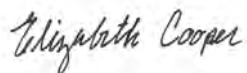
5. The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). The proposed solar site is south of and fully visible year-round from Movant's shared property. As the solar panels would be situated on a north-facing slope with panels facing uphill to the south, all of the framing and infrastructure would be visible from the Rocks and Trees, Inc. property. The Project proposal does not consider views to the north of the Site and no plans to provide screening, which from the Rocks and Trees, Inc. land would be impossible to mitigate. The solar project would be a disruption and not in keeping with the surrounding rural agriculture landscape that as a Rocks and Trees, Inc. landowner has done their part to maintain through property stewardship. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movant incorporates by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Movant prays that they be permitted to participate in this Docket CPG #16-0042-NMP as a party in accordance with PSB Rule 2.209(B).

*Elizabeth W. Cooper*  
*Motion to Intervene CPG #16-0042-NMP- , September 6<sup>th</sup>, 2016*

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.

A handwritten signature in cursive script that reads "Elizabeth Cooper".

Elizabeth W. Cooper  
49 Rocks and Trees Lane, PO Box 1011  
Middletown Springs, VT 05757  
802-235-1406  
ecolanduse@vermontel.net

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

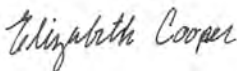
Application of Orchard Road Solar I, LLC for a	)	
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group net metered solar electric generation facility	)	
located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	

**NOTICE OF APPEARANCE**

Please enter the appearance of Elizabeth Cooper, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:



Elizabeth W. Cooper  
49 Rocks and Trees Lane, PO Box 1011  
Middletown Springs, VT 05757  
802-235-1406  
ecolanduse@vermontel.net

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a )  
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Vermont, to be known as the “Orchard Road )  
Solar Project” )

**MOTION TO INTERVENE OF  
Daniel McKeen and Ellen Secord**

Now come Daniel McKeen and Ellen Secord and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Daniel McKeen and Ellen Secord are adjoining property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.

2. We live at 320 West Street in Middletown Springs, on the hillside directly across the road from the proposed solar hillside site. We built our modest home here in 1982, and have since enjoyed the gorgeous orchard view of the proposed site from our living room bay window and front yard.

We contend that this project goes against the tone of our rural small town. The proposed site is a prominent bucolic view from many locations in town. From our home site, it would be a straight line from our living room window to the 3.7 acre solar array, and would definitely offend our sensibilities. Additionally, we fear that Orchard Road Solar 1 could expand to Solar 2 and 3 in the future, as the GroSolar application includes 30 acres. This would go beyond offending our sensibilities.

The proposal is a major change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). No other party will adequately protect our interests. We have a substantial and particularized interest in maintaining the current natural beauty, rural and scenic quality of the land and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

3. The site has been a commercial apple orchard for 100 years, with arsenic and other unknown chemicals being used against pests during that time. We have concerns that the construction required to install the panels will release toxins to travel downhill into the Poultney River and groundwater wells.

The Project is contrary to 10 V.S.A. § 6086(a)(1) Air and Water Pollution; and, 10 V.S.A. § 6086(a)(2) and (3) Sufficiency of Water and Burden on Existing Supply. We have substantial interests in the area of the Site and the appropriate use of the area because of the proximity of our property and house and water supplies and use of the Poultney River for recreation. No other party will adequately protect these interests and there are no alternative means by which these interests may be protected.

4. We also believe that the wording of our 2012 Town Plan shows that residents would be against this location for this type of development. The Plan does not address solar panels specifically, but the wording regarding cell towers reflects the feelings towards utilities:

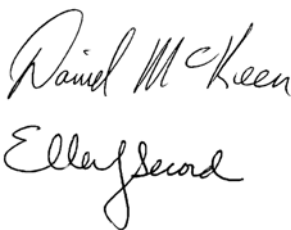
“ Residents would prefer to have cellular phone service in MTS, but a substantial majority (65%) indicated the construction of a new tower should only be undertaken if it could be done without significant visual and environmental impact.”

Contrary to 30 V.S.A § 248(b)(1) the Project will unduly interfere with the orderly development of the region. We have substantial and particularized interest since the issue of the Project’s compatibility with orderly development directly and uniquely affects our property within the region. No other party will adequately protect these interests and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movant incorporates by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Daniel McKeen and Ellen Secord request that they be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6<sup>th</sup> day of September, 2016 in Middletown Springs, Vermont.

The block contains two handwritten signatures. The first signature, "Daniel McKeen", is written in a cursive style with a large, stylized 'D'. The second signature, "Ellen Secord", is also in cursive, with a large 'E' and a distinct 'S'.

Daniel McKeen & Ellen Secord  
320 West Street  
Middletown Springs, VT 05757  
802-235-2340  
danell@vermontel.net

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

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located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	


**NOTICE OF APPEARANCE**

Please enter the appearance of Daniel McKeen and Ellen Secord, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:





Daniel McKeen & Ellen Secord  
320 West Street  
Middletown Springs, VT 05757  
802-235-2340  
danell@vermontel.net



**STATE OF VERMONT  
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Application of Orchard Road Solar I, LLC for a )  
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Solar Project” )

**MOTION TO INTERVENE OF  
KAREN AND ROBERT GALLOWAY**

Now come Karen and Robert Galloway and move to intervene in the matter referenced above pursuant to Public Service Board Rule 2.209(B).

1. Movants. Karen and Robert Galloway (“Movants”) are affected property owners who have substantial, particularized interests protected by Section 248 and the incorporated criteria of Act 250 which may be affected by the outcome of the proceedings in this matter.
2. Movants’ Property. Movants’ 278 acre property is located at 89 Norton Road, Middletown Springs, Vermont, which is to the north of the proposed solar project site (“Project Site”) and across the Poultney River Valley. The Project Site would be located on a hillside that is currently a cleared meadow area that squarely faces Movants’ home and property. The Project Site is the central focus of Movants’ view scape and is integral to the broader Coy Mountain backdrop/panorama. The Project Site is in clear view from other locations on Movants’ property, including pasturelands and an elevated rock promontory with distant valley views. According to the Vermont Supreme Court in In re Petition of Rutland Renewable Energy, LLC, 2016 VT 50, the Public Service Board “can and should consider all vantage points, including from private property.”
3. Aesthetics. The proposal is a major adverse change to the aesthetics of the area and does not comply with 30 V.S.A. § 248(b)(5) Aesthetics, Historic Sites and Rare and Irreplaceable Natural Areas 10 V.S.A. § 6086(a)(8). The Proposed Site is fully visible from multiple vantage points on the Movants’ property at all times of the year. Due to the fact that Movants’ property is at a higher elevation than the Project Site, screening the site with trees or fences would be an exercise in futility, and should be disregarded as a proposed aesthetics mitigation. In fact, lining the edges of the project site with a row of trees or fences would serve only to highlight the perimeter of the Project Site. Moreover, because the solar array will be placed on an upward

slope of the land, the project requires higher than normal support systems, and therefore greater visual impact, to achieve the necessary south facing exposure of the panels. In sum, the unique features of this poorly chosen Project Site, by their very nature, ensure that the project cannot, per se, comply with 10 V.S.A. Section 6086(a)(8) which demands no “undue adverse impact on aesthetics or on the scenic or natural beauty of the area.”

No other party will adequately protect these interests of the Movant. Movant has a substantial and particularized interest in maintaining the current natural beauty, rural, and scenic quality of the land in full view of the Movant’s property and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

4. Orderly Development of the Region. The Project will unduly interfere with the orderly development of the region because it is inconsistent with the Middletown Springs Town Plan, and therefore does not meet the standard of 30 V.S.A. section 248 (b)(1). According to section 248 (b)(1), due consideration must be given to the recommendations of the municipal legislative bodies and the land conservation measures contained in the plan of any affected municipality. As described below, and as will be more fully demonstrated later in these proceedings, the Project Site runs counter to the specific guiding principles for development as set forth in the Middletown Springs Town Plan, adopted March 6, 2012.

According to the Town Plan, “Middletown Springs is unique among Vermont towns...in adopting a proposed Town Plan by public vote. A Town Plan accepted at the polls indicates acceptance by the voters...” Middletown Springs is “one of Vermont’s uniquely shaped communities and defined by its encircling mountains...” The preservation of agriculture, the protection of scenic ridgelines, and a compact village hub are integral to the character of the Town. Future land use should maintain these qualities.” The particular emphasis on the protection of ridgelines from development is highlighted as one of the Town’s five overall land use goals.

Most importantly, Chapter II, Section F, of the Town Plan identifies for preservation the Town’s “Highland Conservation Areas.” That section states:

Middletown Springs is defined by the steep, forested ridgelines that occur near the boundary of the Town including Coy Mountain, Spruce Knob and Spoon Mountain, and the ridge above Train Brook. The ridgelines of Barker Mountain, Morgan Mountain, Barber Mountain, and Spaulding Mountain, as well as a number of other unnamed ridges also contribute to the rugged topography of Middletown Springs. As the place names indicate, the ridgelines hold historic and sentimental value to the residents. They are also important ecologically and aesthetically.

The Proposed Site, which is an integral component of the Coy Mountain ridgeline, is located precisely in one of the areas specifically identified by the Town Plan for preservation – Coy Mountain, one of the historically significant boundary and scenic viewscapes of the Town. The photograph attached hereto as exhibit A, taken from the front deck of Movants' home is worth a thousand words (arrow pointing to Coy Mountain).

The above-quoted Town Plan language identifying Highland Conservation Areas is of the same nature and specificity as the language contained in the Bennington Town Plan describing that Town's so-called "Rural Conservation Districts." The proposed Chelsea Solar Project was found by the Public Service Board to violate such Town Plan language (Docket No. 8302), and Movants submit that the GroSolar Orchard Road Project will similarly fail to meet the requisite standard.

Movant has a substantial and particularized interest in the issue of the Project's compatibility with orderly development as it directly and uniquely affects their property within the region. No other party will adequately protect these interests of the Movant and there are no alternative means by which these interests may be protected. Intervention is timely and will not unduly delay these proceedings or prejudice the interests of existing parties or of the public.

Movant incorporates by reference the comment letter submitted as part of this docket on September 6<sup>th</sup>, 2016.

Wherefore, Movants respectfully request that they be permitted to participate in this Docket CPG #16-0042-NMP as parties in accordance with PSB Rule 2.209(B).

Dated this 6th day of September, 2016 in Middletown Springs, Vermont.



Karen and Robert Galloway  
883 Chagrin River Road  
Gates Mills, OH  
440.423.0421  
[kgalloway@laurelschool.org](mailto:kgalloway@laurelschool.org)  
[rgalloway@bakerlaw.com](mailto:rgalloway@bakerlaw.com)

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a	)	
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located on Orchard Road in Middletown Springs,	)	
Vermont, to be known as the "Orchard Road	)	
Solar Project"	)	

**NOTICE OF APPEARANCE**

Please enter the appearance of Karen and Robert Galloway, *pro se*, in the above referenced matter.

Dated Middletown Springs, Vermont this 6<sup>th</sup> day of September, 2016.

By:



Karen and Robert Galloway  
883 Chagrin River Road  
Gates Mills, OH  
440.423.0421  
[kgalloway@laurelschool.org](mailto:kgalloway@laurelschool.org)  
[rgalloway@bakerlaw.com](mailto:rgalloway@bakerlaw.com)

**STATE OF VERMONT  
PUBLIC SERVICE BOARD**

Application of Orchard Road Solar I, LLC for a )  
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Vermont, to be known as the “Orchard Road )  
Solar Project” )

**CERTIFICATE OF SERVICE**

I, Richard Spitalny, on behalf of myself and Ted & Dina Fitzpatrick, Daniel McKeen & Ellen Secord, Neil & Thomas Russell, Elizabeth Cooper, Karen & Robert Galloway, Peter & Aileen Stevenson, Karen Gutmann & Larry Springsteen, Doug Freilich & Julie Sperling, and Roy Cooper certify this on date, I mailed copies of the enclosed documents to the below Service List.

Ms. Judith Whitney, Clerk  
Vermont Public Service Board  
112 State Street, Drawer 20  
Montpelier, VT 05620-2701

Middletown Springs Selectboard  
PO Box 1232  
Middletown Springs, VT 05757

Vermont Agency of Natural Resources  
Secretary’s Office  
1 National Life Drive, Davis 2  
Montpelier, VT 05620-3901

Fitzpatrick, Ted & Dina  
12525 Jot Em Down Lane  
Odessa, FL 33556

Vermont Public Service Department  
Director of Public Advocacy  
112 State Street, 3rd Floor  
Montpelier, VT 05620-2601

Bartlett, Steven & Debra  
120 Orchard Road  
Middletown Springs, VT 05757

Rutland Regional Planning Commission  
PO Box 965  
Rutland, VT 05702

Lattuca, Russell A  
623 Marlbury Lane  
Longboard Key, FL 34228

Middletown Springs Planning Commission  
PO Box 1232  
Middletown Springs, VT 05757

Gaeckle, Robert & Claire  
45 Beekman Rd.  
Summit, NJ 07901

Green Mountain Power Corporation  
163 Acorn Lane  
Colchester, VT 05446

Parker, Gerald & Janet  
PO Box 627  
Poultney, VT 05741

Wilder, Frank A & Janice A  
260 West St.  
Middletown Springs, VT 05757

Freilich, Douglas & Sperling, Julie  
PO Box 65  
Pawlet, VT 05761

Cooper, Roy  
327 West St.  
Middletown Springs, VT 05757

Gutmann, Karen L  
290 West St.  
Middletown Springs, VT 05757

Marcy, Marilyn & Labate, Maureen  
21 North St.  
Middletown Springs, VT 05757

Russell, Thomas  
300 West St.  
Middletown Springs, VT 05757

Labate, Maureen  
1537 Finel Hollow Road  
Poultney, VT 05764

Rocks & Trees, Inc  
c/o Ellen Secord  
320 West St.  
Middletown Springs, VT 05757

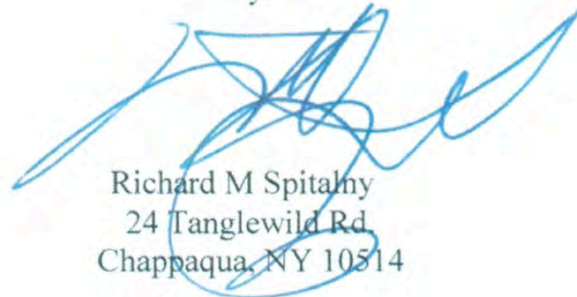
Parker, Jerry  
425 East Road  
Poultney, VT 05764

Lamson, Brian & Connie  
334 West St.  
Middletown Springs, VT 05757

Russell, Neil & Elizabeth  
PO Box 279  
West Rutland, VT 05777

Dated this 6th day of September, 2016

By:



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**Neighbors' Reply to Comments re: Dunkiel Saunders Elliot Raubvogel & Hand, PLLC  
Letter of August 18, 2016 In Response To PSB's August 4, 2016 Order:**

On August 4, 2016 the Public Service Board ordered Applicant to respond to preliminary comments by Richard Spitalny; Robert and Karen Galloway, as well as the Rutland Regional Planning Commission. *Dunkiel Saunders Elliot Raubvogel & Hand, PLLC's* August 18, 2016 letter to the PSB, also sent via first class mail to Mr. Spitalny, the Galloways, and the RRPC, served as Applicant's response.

Our response to the Applicant's August 18 letter is below, in summary form because the details are fleshed out in our Comment Letter and Motions to Intervene. As demonstrated in our Comment Letter, the Application is fundamentally incomplete. Applicant's attorneys' reply to preliminary comments by Mr. Spitalny, the Galloways, and the RRPC does not sufficiently address the numerous deficiencies, omissions and erroneous statements in its application.

The above referenced letter from Applicant's attorney still refers to residences to the north being over 3,000 feet away. This simply is not true. Tom Russell's historic house and barn at 300 West Street are less than 2,000 feet away. "Orchard View Farm", located at 290 West St., owned by Karen Gutmann and Larry Springsteen is located approximately 1,650 feet north of the proposed project site. Further, the site can be seen from the second floor windows of the historic house at 30 Orchard Street (on the west side), less than 1,000 feet from the proposed project site.

In their letter Mr. Hand and Ms. Westgate state Applicant only need be concerned with views from 'public vantage points in the area'. However, according to the Vermont Supreme Court in In re Petition of Rutland Renewable Energy, LLC, 2016 VT 50, the Public Service Board "can and should consider all vantage points, including from private property." Further, the proposed Project site is visible from numerous public vantage points, including Wescott Road, Spruce Knob Road, Coy Hill Road, and Norton Road, among other places, in addition to Route 140.

As can be read throughout the Comment Letter and his Motion To Intervene, Mr. Spitalny's claims are neither 'general' nor 'speculative'.

Mr. Kane's August 10, 2016 letter to Mr. Viens is in response to Mr. Bove's August 2, 2016 letter, on behalf of the RRPC, to the PSB. In his letter, Mr. Kane makes a few points. Please note our comments below, using the same numbering as in Mr. Kane's letter:

1) Ignores the public roads mentioned above, and again states the closest house is over 3,000 feet away ... when ... as stated above there are two Historic house nearby in addition to 'Orchard View Farm'. e.g. one less than 1,000 feet away; another approximately 1,650 feet away and the other less than 2,000 away.

2) Reference to pictures and studies by SE Group, as part of their Quechee Analysis, taken from the north, looking south at the proposed project site not being included in the Application raises the question: Why were they not included? Once the PSB finishes reviewing the Comment Letter, including the many pictures we have provided looking south, from the north, we expect the PSB will know why those pictures were not included. (Because they would clearly demonstrate the proposed Project would unduly adversely affect the aesthetics.)

4) The vegetation Applicant plans on leaving does not mitigate views from public roads and homes, to the north, that are higher in elevation than Wescott Road and the proposed Project site.

5) We find it of note that Applicant plans on planting trees as part of their mitigation plan on the Querreys' private property, outside the 5 acre site. This is completely inappropriate, as they have no way of assuring that those trees will remain.

6) To imply that because what is seen from the north would be the backs of the 2,250, nine foot tall panels, and their shadows and that this somehow decreases visibility of the project and helps it blend in with the mass of the existing hillside and vegetation is, candidly, for lack of a better word, absurd. The proposed Project site is currently a meadow, with the corresponding seasonally changing colors of its vegetation; not metal, industrial installations dark-blue/gray in color.

7) Because the solar array starts low and gets higher to the south more (not less) of it will be visible than if the land sloped lower towards the south.

Mr. Viens' August 16, 2016 letter to Mr. Spitalny is in response to Mr. Spitalny's July 28, 2016<sup>1</sup> letter to the PSB as well as prior emails from Mr. Spitalny to the PSB. Please note our comments below, pertaining to Mr. Viens' letter below:

- As is demonstrated elsewhere in the Historic section of the Comment Letter, the July 26, 2016 letter from the Vermont Department of Historic Preservation is incorrect and incomplete. The house and barn at 30 Orchard Rd are both historic buildings, and the proposed Project site can be seen, year round, from the second floor windows of the house. Further, the house and barns at 300 West St., less than 2,000 north of the proposed Project site, are also historic buildings and the proposed project site can be seen, year round, from there as well.
- Experts with experience in related construction tell us that a significant amount of soil will be disturbed in order to build the 12 foot wide gravel road, and the 10 foot x 20 foot concrete slab to house the equipment and to adequately anchor 2,250 panels that are each nine feet tall, with a surface of over 21 square feet, weighing more than 52 pounds, such that they will withstand the winds and snow at the proposed elevation of over 1,000. Being that the proposed Project site is above and about 1,400 from the Poultney River as well as wetlands that are even closer, the soils must be tested to ensure that such disturbance will not contaminate the river or people's water supplies.
- We appreciate Applicant's offer to provide two photo simulations from the location of our choice. We have selected one from the location the Fitzpatrick's have indicated as the site of their home to be built on the property to the west and contiguous with the

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<sup>1</sup> In his first sentence, Mr. Viens refers to a letter from Mr. Spitalny dated July 29, 2016. The letter sent to the PSB and service list was dated July 28, 2016. There were numerous emails about this time to the PSB but there does not seem to be a July 29<sup>th</sup> letter.

proposed project site. The other simulation we request is from the Galloway home on Norton Road. Given the numerous other views of the site, such as from Spruce Knob Road, we think more than two simulations should be provided.

- The meeting originally scheduled with Mr. Spitalny for April 25<sup>th</sup> was to review alternative locations for the proposed Project site. However, once Mr. Spitalny learned that one of the alternative sites he had in mind was designated as wetlands and that a second alternative site would be highly visible from public roads and homes to the north, he cancelled the meeting.
- The assertion that references in SE Group's report to the closest residences being more than 3,000 feet from the proposed Project site does not apply to 300 West Street (or others on West St.) makes no sense. That address, like others, is indeed to the north, with structures on a portion of the hillside. "No or limited visibility" is an interesting term. Obviously nobody from the SE Group looked out of the window of Mr. Russell's home. Of if they did, it was obviously not in the winter. This is one the oldest homes in Middletown Springs. It is, as documented elsewhere, in the Comment Letter and in Tom and Neil Russell's Motions To Intervene of great historic importance.
- We do not dispute that the closest solar panel might be approximately 400 feet from the house at 67 Wescott Road. However, in some places in the Application Mr. Viens himself states that the project (not the closet panels) are approximately 400 feet from said house. The owner of that house, Mr. Spitalny, continues to make the point that the 7 to 8 foot tall fence will be approximately 300 feet (not 400 feet) from his house and just 185 feet from his property.
- Regarding the assertion that there is not any mapped deer wintering area is not the point. These maps are not made each year. If you use the maps in the Middletown Springs current Town Plan, then the proposed Project site is still a working orchard. Once the owners of the orchard stopped running it as a commercial concern and the deer gates that used to block access to the orchard from the southern portion of Orchard Road and the western portion of Wescott Road were removed, large number of deer winter in the location of the proposed Project site. Those of us who live here know this to be true.
- The statement that Woodcock do not have necessary habitat associated with their life cycle is not the case, according to the National Audubon Society:

"Although woodcocks nest in forested areas, they prefer to perform their courtship displays in more open habitat. For this reason, old pastures and the margins of wooded wetlands are some of the best places to look for singing woodcocks."
- The landowners to the west, Ted and Dina Fitzpatrick, signatories to the Comment Letter, dispute Applicant's assertion that Applicant has provided a plan with adequate mitigation. For Applicant to continue to assert that 2,250 solar panels that will face the Fitzpatricks as they look north from their new home, with just a 50 foot set back, will not

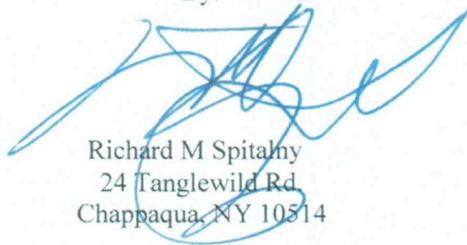
be shocking to the average person and not have an unduly adverse impact on aesthetics is simply not credible.

- As stated above, in the third bullet point, without soil testing Ms. Baron's conclusions in her natural resources report remain questionable.
- Mr. Spitalny appreciates Applicant's offer to discuss specific mitigation steps to further mitigate the view from his house at 67 Wescott Road should Applicant receive a Certificate of Public Good.

Above and elsewhere in the Comment Letter we have cited numerous deficiencies, omissions and erroneous statements by Applicant and again ask the PSB to require Applicant to prepare and submit an accurate and complete Application, as the current Application is incomplete and inaccurate and therefore does not provide an accurate picture of this Project to the Board for its review.

Dated this 6th day of September, 2016,

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